

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**FILED**

JUN 11 2021

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
DEPUTY CLERK

**JOHN MARSH AND INGRID MARSH,  
Plaintiffs, Pro se**

**V.**

**U.S. BANK N.A. AS SUCCESSOR  
TRUSTEE TO LASALLE BANK  
ASSOCIATION ON BEHALF  
OF THE HOLDERS OF BEAR STEARNS  
ASSET BACKED SECURITIES 1 TRUST  
2005-HE12, ASSET-BACKED  
CERTIFICATES SERIES 2005-HE12; SELECT  
PORTFOLIO SERVICING, INC.AND  
DEBORAH MARTIN, Defendants**

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**Case No: 5:21-CV-00321**

**PLAINTIFFS' OBJECTION TO THE COURT'S CONSIDERATION TO DISMISSAL SUA SPONTE UNDER THE DOCTRINE OF RES JUDICATA**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

1. Comes now Plaintiffs, Ingrid Marsh and John Marsh and respectfully file this motion objecting to the Court's intention to dismiss claims against Corporate Defendants, U.S. Bank, N.A. as Successor Trustee to LaSalle Bank National Association on behalf of Bear Stearns Asset Backed Securities 1 Trust 2005-HE12, Asset Backed Certificates Series 2005-HE12, Select Portfolio Servicing, Inc. Sua Sponte and under the doctrine of Res Judicata. This Court did not act on its own. **Evidence shows that the Court was prompted by the Defendants' attorney.**

2. Background and Legal reasons for Objections are stated below.

### **BACKGROUND**

3. Plaintiffs herein assert that their issues and evidence, are not barred *Res Judicata* and Doctrine of Collateral Estoppel, in this case. Cited cases are irrelevant, immaterial and have no bearing on this case. Plaintiffs had the Defendants' illegal and fraudulent foreclosure **DISMISSED – DIRECTED VERDICT:**

a. Lower Court/State Court dismissed Wrongful/Fraudulent Foreclosure, by U.S. Bank, N.A., Select Portfolio Servicing, Inc. and Deborah Martin, on September 7<sup>th</sup>, 2017, by Honorable Judge David Rodriguez, Directed Verdict – Cause No. 2017 CV 03405. The four Statute of Limitations did run when the Defendants wrongfully, unlawfully, illegally and fraudulently foreclosed on April 4, 2017 (Citation shows March 7, 2017).

The Defendants, without adhering to Texas Property Code Section 52.002, pretended as if they received the verdict and fraudulently refiled for foreclosure. Justice of the Peace, Jeff Wentworth was admonished, by Judge Rodriguez, for blocking a Bond to which he, Judge Wentworth, does not have such authority.

b) Evidence showing that the Statute of Limitations did run when they unlawful and illegally foreclosed on the Plaintiffs' home after the foreclosure was

overturned/Dismissed by DIRECTED VERDICT on September 7, 2017.

### LEGAL

4. Res Judicata is a method of **preventing injustice** to the parties of a case.
5. The principle of res judicata originated from the seventh Amendment to the United States Constitution. It addresses the finality of judgment in a Civil Jury Trial.
6. The principle of res judicata seeks to promote the fair administration of justice, **honesty** and to prevent the law from abuse.
7. The Courts have stated that the defense of res judicata must be proved by evidence.
8. Case must be judged on its merit.
9. Pre-requisites for Res Judicata:
  - Judicial decision by a **competent** court
  - **A Fair Hearing**
  - Final and binding
10. Principle of Estoppel must have certain elements in place:
  - A legal relationship
  - A representation of fact
  - Proof of detriment due to misrepresentation of fact or broken promise
  - Proof of inequity between the parties.

11. If an issue was not raised in the previous litigation, Collateral Estoppel may not be used to prevent adjudication of the issue in the new litigation.

12. Estoppel by convention is to be a shield not a sword.

### CONCLUSION:

13. With all due respects, the Plaintiffs' evidence and pleadings have shown that both Judges Jeff Wentworth and Elizabeth Chestney's Courts did not follow the law and were incompetent. Honorable Judge Fred Biery, in his signed judgment, state that he was not familiar with the case.

Therefore the doctrines of Res Judicata and Estoppel **do not** apply to this present case.

14. Defendants' actions are fraudulent, unlawful and illegal.

15. Plaintiffs respectfully Demand a Trial, by Jury; including Hearing and Discovery. Plaintiffs have not received a Jury Trial nor Hearing, by the Federal Courts.

16. Defendants' action is an illegal, scheme foster at the highest level of the legal system, masquerading as a legal foreclosure.

17. Plaintiffs respectfully pray that pursuant to evidence already presented to this Court, that:

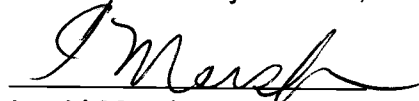
A. Case not be dismissed *sua sponte*


B. All Causes of Action are **NOT BARRED** by Doctrine of Res Judicata

- C. Judgment be issued in favor of Plaintiffs Ingrid Marsh and John Marsh
- D. Home situated at 2 Montique Court, San Antonio, TX 78257, be immediately returned to Ingrid Marsh and John Marsh
- E. Grant equity Damages, to Ingrid Marsh and John Marsh, in the amount of \$100,000,000.

Respectfully Submitted,

Signed this 11th Day of June, 2021

  
Ingrid Marsh, *pro se*

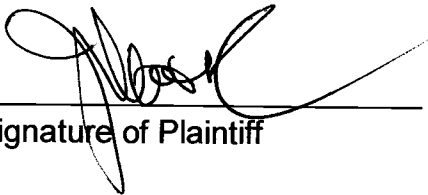
  
John Marsh, *pro se*

Pro se: Mailing Address: 8331 Fredericksburg Rd.,  
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San Antonio, TX 78229  
Tel: (210) 441 0486  
Email: jmarshandassociates@gmail.com

### **CERTIFICATE OF SERVICE**

I John Marsh, Plaintiff pro se, do hereby certify that a true copy of the foregoing pleading was forwarded to H. Gray Burks IV, the attorney for Defendants, on 11<sup>th</sup>, Day of June 2021, by Certified Mail at the following address:

Shapiro Schwartz, LLP  
13105 Northwest Freeway, Suite 1200  
Houston, TX 77040

  
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Signature of Plaintiff